

On May 6, 2008, American Tire Distributors (“plaintiff”) commenced this trademark infringement and unfair competition action against American Tire Corporation (“ATC”) and its president, Abraham Hengyucius (“defendants”). Defendants did not answer or otherwise respond. The clerk entered ATC’s default on July 18, 2008, and Hengyucius’s default on August 20, 2008. Plaintiff then moved for default judgment. On January 14, 2009, defendants filed a motion to set aside their defaults, which the court denied on March 2, 2009. In an order dated June 10, 2009, the court granted plaintiff’s motion for default judgment. Accordingly,

1. That defendants, their agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active

1 concert or participation with them or any of them, are permanently enjoined
2 and restrained:

3 (a) From using AMERICAN TIRE CORPORATION as a
4 trademark, service mark, trade name, or otherwise, and any
5 colorable imitation thereof, including but not limited to any
6 name or mark that includes "AMERICAN TIRE" and any
7 name or mark confusingly similar to or likely to cause
8 confusion with the American Tire Distributors trademark;

9 (b) To take down any and all website content using the name
10 AMERICAN TIRE CORPORATION (e.g., the content at
11 <http://www.americantire.us> and <http://www.abnews.us/atc>)
12 and to cease issuing press releases or advertisements or other
13 promotional materials using the name AMERICAN TIRE
14 CORPORATION;

15 (c) From representing by any means whatsoever, directly or
16 indirectly, that defendants or any products or services offered
17 by defendants, are associated in any way with plaintiff or its
18 products or services, and from otherwise taking any other
19 action likely to cause confusion, mistake, or deception on the
20 part of purchasers or consumers; and

21 (d) From doing any other acts or things calculated or likely to
22 cause confusion or mistake in the mind of the public or to
23 lead purchasers or consumers into the belief that defendants'
24 products or services come from or are the products or
25 services of plaintiff, or are somehow sponsored or
26 underwritten by, or affiliated with, plaintiff, and from
27 otherwise unfairly competing with plaintiff or
28 misappropriating that which rightfully belongs to plaintiff.

2. Defendants are ordered to relinquish registration of the domain name, "AMERICANTIRE.US" and all other registrations of domain names that colorably imitate plaintiff's American Tire Distributors mark, and transfer said registration(s) to plaintiff. Defendants are limited to use of a domain name or names that do not use AMERICAN TIRE, any colorable imitation of the American Tire Distributors trademark, or any name or mark confusingly similar thereto.


3. Defendants are ordered to amend the records of any relevant Secretary of State offices to delete any reference to AMERICAN TIRE CORPORATION as a business name or assumed name and are limited to use of a corporate name that does not use AMERICAN TIRE, any colorable imitation of the American Tire Distributors trademark, or any name or mark confusingly similar thereto or likely to cause confusion with the American Tire Distributors trademark.

4. Defendants are ordered to file with this court and to serve on plaintiff within thirty (30) days after the service of this injunction a report in writing under oath, setting forth in detail the manner and form in which defendants have complied with the foregoing injunctions.

5. Plaintiff shall recover from defendants, jointly and severally, reasonable attorneys' fees and costs.

6. The court will retain jurisdiction for the purpose of hearing applications and making orders necessary or appropriate to enforcement of this judgment.

DATED: June 10, 2009


MARGARET M. MORROW
UNITED STATES DISTRICT JUDGE